# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/779,973 | 02/09/2001 | Rodney D. Miller | 023895/257912 | 8174 |

79901     7590     08/07/2008

Alston & Bird LLP
Bank of America Plaza
101 South Tryon Street
Suite 4000
Charlotte, NC 28280-4000

| EXAMINER |
|---|
| GRAHAM, CLEMENT B |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3692 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 08/07/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 09/779,973 | MILLER ET AL. |
| | Examiner | Art Unit |
| | CLEMENT B. GRAHAM | 3692 |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)☒ Responsive to communication(s) filed on *09 April 2008*.

2a)☒ This action is **FINAL**.     2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)☒ Claim(s) *1-5,7-14,16-21 and 23-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5, 7-14, 16-21, 23-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

## Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date *5/24/01, 11/26/02, 3/23/05, 9/26/05*.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

## DETAILED ACTION

1.  Claims 1-5, 7-14, 16-21, 23-31 remained pending and claims 6, 15, 22 has been cancelled.

### Claim Rejections - 35 USC § 101

2.      35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3.      Claims 19, 27, 30-31, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 19, 27, 30-31 recite a method for auctioning shopping, providing item request, consumer demand to suppliers in a travel information network comprising the steps transferring, filtering, forming , managing, receiving, reevaluating, booking, offering, eliminating reorganizing offering, determining. Based on Supreme Court precedent, a proper process must be tied to another statutory class or transform underlying subject matter to a different state or thing (Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876)). Since neither of these requirements is met by the claim, the method is not considered a patent eligible process under 35 U.S.C. 101. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplished the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Claims 19, 27, 30-31 are directed towards a method for auctioning shopping, providing item request, consumer demand to suppliers in a travel information network comprising the steps transferring steps and modules. Modules and steps can be interpreted at consisting of software per se, and software is not a patentable subject matter because it is not fall under a statutory class as being a process, machine, manufacture, or composition of matter.

### Claim Rejections - 35 USC § 103

4.    The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.    Claims 1-5, 7-14, 16-21, 23-31, are rejected under 35 U.S.C. 103(a) as being

unpatentable over Walker U.S Patent: 6, 553, 346 in view Ojha et al (Hereinafter Ojha

U.S Patent 6, 598, 0261.

As per claims 1-3, Walker discloses a system for auctioning consumer demand to suppliers

comprising:

a request adapter for receiving a first data set in a first protocol, converting the first data set to a

second data set in a second intermediate protocol and then, converting the second data set to a

third data set in a third protocol (see column 5 lines 25-67 and column 6-12 lines 1-65)

a request preprocessor (see column 9 lines 30-46) for receiving the third data set from the request

adapter and filtering the third data set (see column 2-5 paragraph 0015-0053) a virtual group

processor(see column 9 lines 30-46) for receiving the third data set, which has been filtered by

the request preprocessor and creating at least one group, including the third data set and similar

data sets in the third protocol(see column 5 lines 25-67 and column 6-12 lines 1-65).

Walker fail to explicitly teach a dynamic packaging orchestrator and continuous shopping engine

(DPOICSE) for managing the at least one group, shopping for bids on at least one product

represented in the at least one group, and booking the at least one product based on the received

bids.

However Ojha discloses According when the merchant logs on to the system all bids

currently outstanding to that merchant for a variety of products are shown in the format of

interface 1100. The merchant may then select a particular product in the product column to view

all currently outstanding bids for that product either to the merchant or to a plurality of

merchants. The market information presented will be adapted according to the particular view.

The market information may be employed by a particular merchant in a variety of ways for

decision-making support. A particular use would depend upon the nature of the information. As

described above, demand data could be used to effect block deals. Demand data or the price history for a particular product could be used to make adjustments to the merchant's list price. It will be understood that there are a wide variety of ways in which such market information could be used to enhance a merchant's decision making which are within the scope of the present invention.(see column 12 lines 66-67 and column 13 lines 1-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Walker to include a dynamic packaging orchestrator and continuous shopping engine (DPOICSE) for managing the at least one group, shopping for bids on at least one product represented in the at least one group, and booking the at least one product based on the received bids taught by Ojha in order to facilitate transaction between buyers and sellers on the web.

As per claim 4, Walker discloses wherein the request preprocessor filters the third data set based on a set of elimination rules that eliminate or accept the travel request, based on a consumer's flexibility and the travel request availability. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 5, Walker discloses wherein if the third data set does not meet the elimination rules it is rejected. (see column 5 lines 25-67 and column 6-12 lines 1-65)

As per claim 7, Walker discloses wherein the DPO/CSE manages the at least one group by applying flexibility rules. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 8, Walker discloses wherein if the at least one group represents a plurality of products, the DPOICSE manages the at least one group by disassembling the plurality of products and re-assembling the plurality of products into one or more combinations of products before shopping for bids. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 9, Walker discloses wherein the DPOICSE shops for bids on the one or more combinations of products by submitting bid requests to suppliers and receiving one or more bids for the one or more combination of products. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 10 Walker discloses wherein the suppliers submit the one or more bids to the DPOICSE manually or automatically through proxy agents, based on proxy trading rules. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 11, Walker discloses wherein the DPO/CSE books the one or more combination of products based on event and availability information. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claims 12-14, Walker discloses a travel information system for auctioning consumer demand to suppliers comprising:

a request adapter for receiving a PNR from a distribution system and converting the PNR to a travel request for a consumer associated with the PRN; (see column 5 lines 25-67 and column 6-12 lines 1-65)

a request preprocessor for receiving the travel request from the request adapter and filtering the travel request, based on a set of elimination rules. (see column 2-5 paragraph 0015-0053) a virtual group processor for receiving the travel requests, filtered by the request preprocessor and satisfying the set of eliminationand creating at least one group, including the travel requests and similar travel requests see column 5 lines 25-67 and column 6-12 lines 1-65).

Walker fail to explicitly teach a dynamic packaging orchestrator and continuous shopping engine (DPOICSE) for managing the at least one group, shopping for bids on at least one product represented in the at least one group, and booking the at least one product based on the received bids.

However Ojha discloses According when the merchant logs on to the system all bids currently outstanding to that merchant for a variety of products are shown in the format of interface 1100. The merchant may then select a particular product in the product column to view all currently outstanding bids for that product either to the merchant or to a plurality of merchants. The market information presented will be adapted according to the particular view. The market information may be employed by a particular merchant in a variety of ways for decision-making support. A particular use would depend upon the nature of the information. As described above, demand data could be used to effect block deals. Demand data or the price history for a particular product could be used to make adjustments to the merchant's list price. It will be understood that there are a wide variety of ways in which such market information could be used to enhance a merchant's decision making which are within the scope of the present invention.(see column 12 lines 66-67 and column 13 lines 1-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Walker to include a dynamic packaging orchestrator and continuous shopping engine (DPOICSE) for managing the at least one group, shopping for bids on at least one product represented in the at least one group, and booking the at least one product based on the received bids taught by Ojha in order to facilitate transaction between buyers and sellers on the web.

As per claim 16, Walker discloses wherein if the at least one group represents a plurality of products, the DPO/CSE manages the at least one group by organizing the plurality of products into one or more combinations of products before shopping for bids. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 17, Walker discloses wherein the DPO/CSE shops for bids on the one or more combinations of products by submitting bid requests to suppliers and receiving one or more bids for the one or more combination of products. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 18, Walker discloses wherein the suppliers submit the one or more bids to the DPO/CSE manually or automatically through proxy agents, based on proxy trading rules. (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claims 19-21, Walker discloses a method for auctioning consumer demand to suppliers in a travel information network comprising the steps of transferring a PNR from a distribution system to a request adapter for conversion to a travel request for a consumer associated with the PNR transferring the travel request from the request adapter to a request preprocessor, filtering the travel request with the request preprocessor; transferring the filtered travel request to a virtual group processor; forming at least one group, including the travel requests and similar travel requests with the virtual group processor (see column 5 lines 25-67 and column 6-12 lines 1-65)

and transferring the at least one group from the virtual group (see column 5 lines 25-67 and column 6-12 lines 1-65).

Walker fail to explicitly teach processor to a dynamic packaging orchestrator and continuous shopping engine (DPOICSE) that managing the at least one group

shopping for bids on at least one product represented in the at least one group, receives bids on the at least one product represented in the at least one group, and books the at least one product based on the received bids.

However Ojha discloses According when the merchant logs on to the system all bids currently outstanding to that merchant for a variety of products are shown in the format of interface 1100. The merchant may then select a particular product in the product column to view all currently outstanding bids for that product either to the merchant or to a plurality of merchants. The market information presented will be adapted according to the particular view. The market information may be employed by a particular merchant in a variety of ways for decision-making support. A particular use would depend upon the nature of the information. As described above, demand data could be used to effect block deals. Demand data or the price history for a particular product could be used to make adjustments to the merchant's list price. It will be understood that there are a wide variety of ways in which such market information could be used to enhance a merchant's decision making which are within the scope of the present invention.(see column 12 lines 66-67 and column 13 lines 1-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Walker to include

processor to a dynamic packaging orchestrator and continuous shopping engine (DPOICSE) that manages the at least one group shops for bids on at least one product represented in the at least one group, receives bids on the at least one product represented in the at least one group, and books the at least one product based on the received bids taught by Ojha in order to facilitate transaction between buyers and sellers on the web.

As per claim 23, Walker discloses wherein managing the at least one group further includes applying consumer and supplier profile rules to the travel request (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 24, Walker discloses wherein managing the at least one group includes disassembling a plurality of products and re-assembling the plurality of products into one or more combinations of products before shopping for bids (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 25, Walker discloses wherein receiving the one or more bids at the DPO/CSE further includes receiving bids from suppliers that have submitted the bids manually or automatically through proxy agents, based on proxy trading rules (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 26, Walker discloses wherein the step of booking the travel request includes acquiring the one or more combination of products based on event and availability information received by the DPO/CSE (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claims 27-29, Walker discloses a method for booking a travel request comprising:
receiving the travel request;
continuously shopping the travel request at a distribution system;
reevaluating a price and the availability of the travel request offered at the distribution system to fulfill the travel request, and booking the travel request at the distribution system if it is determined that an appropriate price is offered at the distribution system and the travel request is available (see column 5 lines 25-67 and column 6-12 lines 1-65).

As per claim 30, Walker discloses a dynamic packaging orchestrator and continuous shopping engine (DPO/CSE)
comprising:
a dynamic connection constructor module for receiving the one or more grouped requests and generating a list of alternate requests, based on a consumer's flexibility rules derived from a consumer's profile , and submitting the alternate requests to the dynamic packaging management module; and a bid management module for (see column 5 lines 25-67 and column 6-12 lines 1-65) receiving the plurality of individual requests, the additional requests, and the alternate requests from the dynamic packaging management module, offering the plurality of individual requests, the additional request, and the alternate requests for bidding (see column 2-5 paragraph 0015-0053)receiving bids on the plurality of individual requests, the additional requests, and the alternate requests and determining whether one or more of the bids are acceptable, and booking one or more of the bids that were acceptable with a distribution system.
(see column 5 lines 25-67 and column 6-12 lines 1-65).

Walker fail to explicitly teach a dynamic packaging management module for dividing one or more grouped travel requests into a plurality of individual requests represented in the one or more grouped requests and creating additional requests based on flexibility rules.

However Ojha discloses According when the merchant logs on to the system all bids currently outstanding to that merchant for a variety of products are shown in the format of interface 1100. The merchant may then select a particular product in the product column to view all currently outstanding bids for that product either to the merchant or to a plurality of merchants. The market information presented will be adapted according to the particular view. The market information may be employed by a particular merchant in a variety of ways for decision-making support. A particular use would depend upon the nature of the information. As described above, demand data could be used to effect block deals. Demand data or the price history for a particular product could be used to make adjustments to the merchant's list price. It will be understood that there are a wide variety of ways in which such market information could be used to enhance a merchant's decision making which are within the scope of the present invention.(see column 12 lines 66-67 and column 13 lines 1-46).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Walker to include a dynamic packaging management module for dividing one or more grouped travel requests into a plurality of individual requests represented in the one or more grouped requests and creating additional requests based on flexibility rules(see column 2-5 paragraph 0015-0053)taught by Ojha in order to facilitate transaction between buyers and sellers on the web.

As per claim 31, Walker discloses a method for providing item requests comprising: receiving requests for items from at least one of a plurality of sources; processing the requests for items received in a standard format or converting the request for items received in other formats to a standard format (see column 5 lines 25-67 and column 6-12 lines 1-65) eliminating the request for items that fail to meet a predetermined criteria; reorganizing the request for items into groups having the same or similar items;

offering the groups for bid to prospective suppliers (see column 5 lines 25-67 and column 6-12 lines 1-65) receiving a bid from at least one of the prospective suppliers that fulfill an item within one of the grouped request for items and repeatedly shopping at least one of the request

for items at distribution system in pre determined time intervals until the at least one request is satisfied (see column 5 lines 25-67 and column 6-12 lines 1-65).

## Conclusion

## Response to arguments

6.     Applicant's arguments filed 4/9/08 has been fully considered but they are not persuasive for the following reasons.

7.     In response to Arguments that Walker and Ojha fail to tea or suggest" a request adapter for receiving a first data set in a first protocol, converting the first data set to a second data set in a second intermediate protocol and then, converting the second data set to a third data set in a third protocol a request preprocessor (see column 9 lines 30-46) for receiving the third data set from the request adapter and filtering the third data set a virtual group processor for receiving the third data set, which has been filtered by the request preprocessor and un-rejected, and creating at least one group, including the third data set and other data sets in the third protocol and a dynamic packaging orchestrator and continuous shopping engine (DPOICSE) for managing the at least one group, shopping for bids on at least one product represented in the at least one group, and booking the at least one product based on the received bids" the Examiner dis agrees with Applicant' because these limitations were addressed as stated.

Walker discloses a system for auctioning consumer demand to suppliers comprising:

a request adapter for receiving a first data set in a first protocol, converting the first data set to a second data set in a second intermediate protocol and then, converting the second data set to a third data set in a third protocol (see column 5 lines 25-67 and column 6-12 lines 1-65)

a request preprocessor (see column 9 lines 30-46) for receiving the third data set from the request adapter and filtering the third data set (see column 2-5 paragraph 0015-0053) a virtual group processor(see column 9 lines 30-46) for receiving the third data set, which has been filtered by the request preprocessor and un-rejected, and creating at least one group, including the third data set and other data sets in the third protocol(see column 5 lines 25-67 and column 6-12 lines 1-65).

  However Ojha discloses According when the merchant logs on to the system all bids currently outstanding to that merchant for a variety of products are shown in the format of interface 1100. The merchant may then select a particular product in the product column to view all currently

outstanding bids for that product either to the merchant or to a plurality of merchants. The market information presented will be adapted according to the particular view. The market information may be employed by a particular merchant in a variety of ways for decision-making support. A particular use would depend upon the nature of the information. As described above, demand data could be used to effect block deals. Demand data or the price history for a particular product could be used to make adjustments to the merchant's list price. It will be understood that there are a wide variety of ways in which such market information could be used to enhance a merchant's decision making which are within the scope of the present invention.(see column 12 lines 66-67 and column 13 lines 1-46).

It is obvious that Applicant's claimed limitations were addressed within the *teachings of Walker and Ojha* .

8-+-.  **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLEMENT B. GRAHAM whose telephone number is (571)272-6795.  The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702.  The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Frantzy  Poinvil/
**Primary Examiner, Art Unit 3692**

CG

August 2, 2008